

**Amendment No. 685**

Assembly Amendment to Senate Bill No. 383 First Reprint (BDR 10-916)

**Proposed by:** Assembly Committee on Judiciary

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 383 R1.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

BFG/BAW



Date: 5/21/2013

S.B. No. 383—Revises provisions governing time shares. (BDR 10-916)



## SENATE BILL NO. 383—SENATOR PARKS (BY REQUEST)

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing time shares. (BDR 10-916)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to time shares; ~~requiring developers of time shares to disclose certain information;~~ revising provisions governing the public offering statement provided to prospective purchasers; ~~requiring developers to provide the Real Estate Division of the Department of Business and Industry with certain information;~~ revising provisions concerning the renewal of a permit to sell a time share; requiring certain persons to notify the Real Estate Division of certain convictions; authorizing the Real Estate Commission to take certain actions against certain people in certain circumstances; prohibiting certain people from working in certain time-share related professions without a proper license; making various other changes relating to time shares; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a developer from offering to sell a time share without first obtaining a permit. (NRS 119A.270) Existing law requires that the Administrator of the Real Estate Division of the Department of Business and Industry issue a permit and a public offering statement to a developer who submits certain information to the Division. (NRS 119A.300) Existing law further requires: (1) each developer, through his or her project broker and sales agents, to provide each prospective purchaser with a copy of the developer's public offering statement and a copy of the developer's permit to sell time shares; and (2) the project broker or sales agent to review the public offering statement with each prospective purchaser before the execution of any contract for the sale of a time share and obtain a receipt signed by the purchaser for a copy of the public offering statement. (NRS 119A.400) Section 4 of this bill requires that a developer submit a ~~sample~~ public offering statement to the Division ~~for approval for use by the developer. Section 4~~ also sets forth the information that must be included in ~~a sample~~ the public offering statement. (Sections 5 and) Section 6 of this bill (require) requires a developer to provide ~~each purchaser and sales and marketing entity of a time share)~~ the board of the association for the time-share plan with a copy of an approved public offering statement and certain other information. Section 21.5 of this bill revises the provision of existing law requiring

18 the developer to provide the public offering statement to prospective purchasers of a  
 19 time share. Sections 8-13 of this bill revise certain definitions concerning time shares.  
 20 Section 14 of this bill revises provisions concerning the applicability of the provisions  
 21 governing time shares in certain circumstances.

22 Existing law prohibits a provisional sales agent from conducting sales-related activities  
 23 unless certain circumstances apply. (NRS 119A.237) Section 15 of this bill authorizes a  
 24 provisional licensee to conduct sales-related activities if he or she is under the supervision of  
 25 certain persons. Existing law provides that the Administrator of the Division is required to  
 26 issue to a developer a public offering statement and a permit to sell time shares if certain  
 27 requirements are satisfied. (NRS 119A.300) Section 16 of this bill adds certain items to the  
 28 list of requirements such a developer must satisfy. ~~[Section 6.5 of this bill provides certain~~  
 29 ~~requirements that apply to a time share plan that is located outside of this State.~~

30 ~~Existing law requires the Division to issue an order within 20 days after receiving an~~  
 31 ~~application for a permit to sell a time share. (NRS 119A.320) Section 18 of this bill permits~~  
 32 ~~the Division 60 days to issue such an order if it is a time share plan containing only one~~  
 33 ~~component site, or 120 days if it contains more than one component site. Section 18 also~~  
 34 ~~requires the Division to notify the applicant of its decision to issue a public offering statement~~  
 35 ~~and permit to sell time shares.~~

36 ~~Existing law requires that a permit to sell a time share be renewed on an annual basis.~~  
 37 ~~(NRS 119A.355) Section 19 of this bill requires the Division to renew the permit of an~~  
 38 ~~applicant within 20 days after receiving evidence that any deficiencies in the renewal~~  
 39 ~~application have been cured.]~~

40 Existing law requires certain persons to notify the Division of any criminal convictions or  
 41 guilty pleas. (NRS 119A.357) Section 20 of this bill adds ~~[certain other persons]~~ time-share  
 42 resale brokers and persons licensed as real estate salespersons, real estate broker-  
 43 salespersons and real estate brokers to the list of persons required to notify the Division of  
 44 such convictions or pleas. ~~[Existing law requires that certain information be included in a~~  
 45 ~~reservation to purchase a time share. (NRS 119A.300) Section 21 of this bill provides that a~~  
 46 ~~reservation to purchase a time share is required to provide for the placement of a deposit in~~  
 47 ~~escrow until the public offering statement is approved and a permit to sell is issued.]~~

48 Existing law requires a board of an association of time-share owners to conduct a study,  
 49 through a qualified person, of the reserves required to repair the major components of the  
 50 time-share plan, and to review the results of the study. (NRS 119A.542) Section 24 of this bill  
 51 places this requirement on a developer as well as on the board of an association. Existing law  
 52 authorizes the Real Estate Commission to take certain action against a project broker who fails  
 53 to adequately supervise certain persons. (NRS 119A.670) Section 25 of this bill authorizes the  
 54 Real Estate Commission to take the same actions against certain other persons. Existing law  
 55 prohibits any person from working as a project manager without first obtaining the  
 56 appropriate license from the Division. (NRS 119A.680) Section 26 of this bill ~~[prohibits any~~  
 57 ~~person]~~ revises the list of persons prohibited from performing certain work without first  
 58 obtaining the appropriate license from the Division.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 119A of NRS is hereby amended by adding thereto the  
 2 provisions set forth as sections 2 to 6.5, inclusive, of this act.

3 Sec. 2. "Component site" means a specific geographic location where units  
 4 are located. The term includes new units added to a single project in the same  
 5 specific geographic location and under common management.

6 Sec. 3. "Sales and marketing entity" means an entity hired by a developer  
 7 to manage the sale or marketing of a [time share.] time-share plan.

8 Sec. 4. 1. The developer shall file a [sample] public offering statement  
 9 with the Division for approval for use as prescribed in NRS 119A.300.

10 2. If the Division determines that the sample public offering statement  
 11 submitted by the developer is deficient, the Division shall issue to the developer by

~~mail or electronic mail a notice of deficiency. The developer may revise and resubmit the sample public offering statement within 30 days after receiving the Division's notice of deficiency. Within 30 days after receipt of the revised sample public offering statement, the Division shall notify the developer by mail or electronic mail whether the Division has approved the revised sample public offering statement. If the developer fails to correct the cited deficiencies within 30 days after receiving the Division's notice of deficiency, the Division may reject the developer's application. Subsequent to such a rejection, a new filing fee pursuant to NRS 119A.360 will apply to any additional filing.~~

~~3. Any material change to an approved public offering statement must be filed with the Division for approval as an amendment before the change becomes effective. Within 45 days after receipt of the developer's amendment, the Division shall notify the developer by mail or electronic mail whether the Division has approved the amendment. If the developer fails to adequately respond to any notice of deficiency within 30 days, the Division may reject the amendment. Subsequent to such a rejection, a new filing fee pursuant to NRS 119A.360 will apply to any refiling or further review of the rejected amendment.~~

~~4. The [sample] public offering statement must include the following disclosures in substantially the following form, in at least 12-point bold type:~~

~~This Public Offering Statement is issued prepared by the Developer to provide you with basic and relevant information on a specific time-share offering. The Developer or Owner of the offering that is the subject of this Public Offering Statement has provided certain information and documentation to the Real Estate Division of the Department of Business and Industry (the "Division") that has enabled the Division to issue this Public Offering Statement.~~ as required by law.

~~The statements contained in this Public Offering Statement are only summary in nature. A prospective purchaser should review all references, accompanying exhibits, the purchase contract, all documents governing the time-share plan or provided or available to the purchaser and the sales materials. You should not rely upon oral representations as being correct. Refer to this document and any accompanying exhibits public offering statement, the purchase contract and the documents governing the time-share plan for correct representations. ~~A prospective purchaser should only rely on the representations contained in the contract and this Public Offering Statement.~~~~

~~While the Division makes every effort to confirm the information provided and to ensure that the offering will be developed, managed and operated as planned, there is no guarantee this will always be the case. The Division cannot and does not make any promise or guarantee as to the viability or continuance of the offering or the financial future of the offering or any plan, club or association affiliated therewith.~~

~~The information included in this Public Offering Statement is applicable as of the its effective date, of issuance. Expenses of operation are difficult to predict accurately and even if accurately estimated initially, most expenses increase with the age of facilities and with increases in the cost of living.~~

1       The Division strongly suggests that before executing an agreement or  
2       contract, you read all of the documentation and information provided to  
3       you and seek additional assistance if necessary to assure that you  
4       understand all aspects of the offering and are aware of any potential  
5       adverse circumstances that could result from a time-share purchase in  
6       this Offering.

7  
8       The purchaser of a time share may cancel, by written notice, the contract  
9       of sale until midnight of the fifth calendar day following the date of  
10      execution of the contract. The right of cancellation may not be waived.  
11      Any attempt by the Developer to obtain a waiver results in a contract  
12      which is voidable by the purchaser. The notice of cancellation may be  
13      delivered personally to the Developer or sent by certified mail, return  
14      receipt requested, or by providing notice by express, priority or ~~standard~~  
15      recognized overnight ~~common carrier~~ delivery service, with proof of  
16      service, to the business address of the Developer. The Developer must,  
17      within 20 days after receipt of the notice of cancellation, return all  
18      payments made by the Purchaser.

19  
20      ~~5.1~~ 3. The ~~sample~~ public offering statement must include, without  
21      limitation, the following information in a form prescribed by the Division:

22      (a) A brief history of the developer's business background, experience in real  
23      estate and regulatory history.

24      (b) A description of any judgment against the developer or sales and  
25      marketing entity ~~++~~ which has a material adverse effect on the developer or the  
26      time-share plan. If no such judgment exists, there must be a statement of such  
27      fact.

28      (c) The status of any pending proceeding to which the developer or sales and  
29      marketing entity is a party ~~++~~ and which has a material adverse effect on the  
30      developer or the time-share plan. If no ~~judgments or pending~~ such proceedings  
31      exist, there must be a statement of such fact.

32      (d) The name and address of the developer, ~~++~~ a detailed description of the type  
33      of time share plan being offered, the name of the time-share plan and the  
34      address of ~~the project,~~ each component site.

35      (e) A summary of the current annual budget of the project or the time-share  
36      plan, including:

37      (1) The projected assessments for each type of unit offered in the time-  
38      share plan; and

39      (2) A statement of property taxes assessed against the project and , if not  
40      included in the projected assessments, the projected amount of the purchaser's  
41      share of responsibility ++ for the property taxes assessed against the project.

42      (f) A detailed description of the type of time-share plan being offered, a  
43      description of the type of interest and use rights the purchaser will receive ++ and  
44      a description of the total number of time shares in the time-share plan at the time  
45      the permit is issued.

46      (g) A description of all restrictions, easements, reservations or zoning  
47      requirements which may limit the purchaser's use , sale, lease, transfer or  
48      conveyance of the time share. The description must include any restrictions to be  
49      imposed on time shares concerning the use of any of the accommodations or  
50      facilities, and whether there are restrictions upon children or pets. For the  
51      purposes of this paragraph:

(1) The description may reference a list of the documents containing the restrictions and state that the copies of the documents are available to the purchaser upon request.

(2) If there are any restrictions upon the sale, lease, transfer or conveyance of a time share, the description must include a statement, in at least 12-point bold type, in substantially the following form:

*The sale, lease, transfer or conveyance of a time share is restricted or controlled.*

*(Immediately following this statement, a description of the nature of the restriction, limitation or control on the sale, lease, transfer or conveyance of the time share must be included.)*

(3) If there are no restrictions, there must be a statement of that fact.

(h) A description of the duration, projected phases and operation of the time-share plan.

(i) A representation by the developer ensuring that the time-share plan maintains a one-to-one use night to use right ratio. For the purposes of the ratio calculation in this paragraph, each purchaser must be counted according to the use rights held by that purchaser in any calendar year. For the purposes of this paragraph, "one-to-one use night to use right ratio" has the meaning ascribed to it in NRS 119A.525.

(j) A summary of the organization of the association ~~for the time-share plan,~~ the voting rights of the members, the developer's ~~position~~ voting rights in that association, a description of what constitutes a quorum for voting purposes and at what point in the sales program the developer relinquishes his or her control of ~~that association,~~ if applicable, and any other ~~material~~ information pertaining to ~~that association~~ which is material to the right of the purchaser to use a time share.

(k) A description of the existing or proposed accommodations, including a description of the type and number of time shares in the accommodations which is expressed in periods of 7-day use availability or other time increments applicable to the time-share plan and, if the accommodations are proposed or not yet completed or fully functional, an estimated date of completion.

~~(l) Each~~ For the purposes of this paragraph, the type of accommodation must be described in terms of the number of bedrooms, bathrooms and sleeping capacity, and a statement of whether the accommodation contains a full kitchen. ~~For the purposes of~~ As used in this paragraph, "full kitchen" means a kitchen that includes, at a minimum, a dishwasher, range, sink, oven and refrigerator.

~~(m) (l)~~ A description of any existing or proposed amenities of the time-share plan and, if the amenities are proposed or not yet completed or fully functional, the estimated date of completion, including a description of the extent to which financial assurances have been made for the completion of any incomplete but promised improvements. amenities.

~~(n) (m)~~ The name and principal address of the manager, if any, of the project or time-share plan, as applicable, and a description of the procedures, if any, for altering the powers and responsibilities of the manager and for removing or replacing the manager.

~~(o) A summary of the current annual budget of the project or the time share plan, as applicable, including the projected assessments for each unit type offered in the time share plan.~~

~~(p)~~ (n) A description of any liens, defects or encumbrances on or affecting the title to the time share which materially affects the purchaser's use of the units or facilities within the time-share plan.

~~(q)~~ (o) Any special fee due from the purchaser at closing, other than customary closing costs, together with a description of the purpose of the fee.

~~(r)~~ (p) Any current or expected fees or charges to be paid by purchasers for the use of any amenities ~~related to~~ of the time-share plan.

~~(s)~~ (q) A statement of whether or not the amenities of the time-share plan will be used exclusively by purchasers of time-shares in, or authorized under, the time-share plan and, if the amenities are not to be used exclusively by such purchasers or authorized users, a statement of whether or not the purchasers of time shares in the time-share plan are required to pay any portion of the maintenance expenses of such amenities in addition to any fees for the use of such amenities.

(r) A statement indicating that hazard insurance coverage is provided for the project.

~~(t)~~ A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a time share.

~~(u)~~ (s) A description of the purchaser's right to cancel the purchase contract.

~~(t)~~ (t) A statement ~~disclosing that a~~ of whether or not the purchaser's deposit made in connection with the purchase of a time share will be held by an escrow agent until the expiration of any right to cancel the contract ~~and~~ or, if the purchaser's deposit will not be held by such an escrow agent, a statement that the purchaser's deposit will be immediately released to the developer and that the developer has posted a surety bond.

(u) A statement that the deposit plus any interest earned must be returned to the purchaser if he or she elects to exercise his or her right of cancellation. ~~A surety bond may be posted in lieu of a deposit if the designated obligee is acceptable to the Division.~~

~~(v)~~ A statement as to whether the facilities will be used exclusively by purchasers of the time share plan and, if the facilities are not to be used exclusively by purchasers, a statement as to whether the purchasers of the time share plan are required to pay any portion of the maintenance expenses of such facilities.

~~(w)~~ A description of the purchaser's right of cancellation of the purchase contract.

~~(x)~~ A statement of the total number of time shares in the time share plan at the time a permit has been issued.

~~(y)~~ (v) If the time-share plan provides purchasers with the opportunity to participate in an exchange program, ~~a description of~~ the name and address of the exchange company and a description of the method by which a purchaser ~~fean~~ may choose to participate in the exchange program.

~~(z)~~ (w) A description of the reservation system, if applicable, which must include:

(1) The name of the entity responsible for operating the reservation system, its relationship to the developer and the duration of any agreement for operation of the reservation system; and

(2) A summary of the rules and regulations governing access to and use of the reservation system, including, without limitation, the existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come, first-served basis;



~~[(2)]~~ (x) A description of the points system, if applicable, including, without limitation, whether ~~the~~ additional points may be acquired by purchase or otherwise, in the future and the manner in which future purchases of points may be made, and the transferability of points to other persons, other years or other time-share plans. ~~+~~

~~— (4) The description must include:~~

~~(1)~~ (1) A statement that no owner shall be prevented from using a time share as a result of changes in the manner in which point values may be used;

~~[(5)]~~ (2) A statement that in the event point values are changed or adjusted, no owner shall be prevented from using his or her home resort, if any, in the same manner as was provided for under the original purchase contract; and

~~[(6)]~~ (3) A description of any limitations or restrictions upon the use of point values. ~~+~~ and

~~— (7) (y)~~ (y) A statement as to whether any unit within the time-share plan is within a mixed-use project containing ~~full~~ whole ownership condominiums.

(z) A statement that documents filed with the Division as part of the statement of record which are not delivered to the purchaser are available from the developer upon request.

(aa) For a time-share plan with more than one component site, ~~the public offering statement must contain~~ a description of each component site. ~~+~~ With respect to a component site, the information required by subparagraph (2) and paragraphs (d), (k), (l), (p), (q) and (r) may be disclosed in written, graphic, tabular or any other form approved by the Division. ~~The~~ In addition to the information required by paragraphs (a) to (z), inclusive, the description of ~~each~~ a time-share plan with more than one component site must include the following information:

~~(1) The name and address of each component site.~~

~~(2) A description of amenities available for use by the purchaser at each component site.~~

~~(3) A general statement as to whether the developer has a right to make additions, substitutions or deletions of any accommodations, amenities or component sites, and a statement of the basis upon which accommodations, amenities or component sites may be added to, substituted for or deleted from the time-share plan.~~

~~[(4) A description of the purchaser's liability for any user fees or special assessments associated with the time share plan.~~

~~[(5)]~~ (2) The location of each component site of the time-share plan, the historical occupancy of the units in each component site for the previous 12-month period, if the component site was part of the time-share plan during the previous 12-month time period, or any other description acceptable to the Division that reasonably informs a purchaser regarding the relative use demand per component site, as well as a statement of any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual use patterns and changes in use demand for the accommodations existing at that time within the time-share plan.

~~[(6)]~~ (3) The number of accommodations and time shares, expressed in periods of 7-day use availability or other time increments applicable to the time-share plan, committed to the time-share plan, and available for use by purchasers, and a statement describing how adequate periods of time for maintenance and repair will be provided.

(bb) Any other information that the developer, with the approval of the Administrator, decides to include in the public offering statement.



~~16.1~~ 4. Copies of the following documents and plans, or proposed documents if the time-share plan has not been declared or created at the time the application for a permit is submitted, to the extent they are applicable, must be provided to the purchaser with the public offering statement:

(a) Copies of the time-share instruments.

(b) The estimated or, if applicable, actual operating budget of the time-share plan.

~~17.1~~ 5. The ~~sample~~ public offering statement must include a list of the following documents, if applicable to the time-share plan, and must state that the documents listed are available to the purchaser upon request:

(a) Any ground lease or other underlying lease of the real property associated with the time-share plan.

(b) The management agreement of the project or time-share plan, as applicable.

(c) The floor plan of each type of accommodation and any existing plot plan showing the location of all accommodations and facilities declared as part of the time-share plan and filed with the Division.

(d) The lease for any facilities that are part of the time-share plan.

(e) Any executed agreement for the escrow of payments made to the developer before closing.

(f) Any letter from the escrow agent confirming that the escrow agent and its officers, directors or other partners are independent.

~~18.1~~ 6. The Administrator may, upon finding that the subject matter is otherwise adequately covered or the information is unnecessary or inapplicable, waive any requirement set forth in this section.

Sec. 5. ~~Before a purchase contract is signed by the parties, the developer shall provide to each purchaser:~~

~~1. A copy of the public offering statement as approved by the Division;~~

~~2. A receipt, to be signed by the purchaser, for the time share plan documents;~~

~~3. A list describing any exhibit submitted to the Division along with the developer's application for a permit and which was not delivered to the purchaser;~~

~~4. A statement indicating that any exhibit described in subsection 3 will be made available to the purchaser upon request; and~~

~~5. Any pending amendments that have been submitted to the Division but have not yet been approved, along with a statement to the purchaser that the amendment has been submitted to the Division for approval. (Deleted by amendment.)~~

Sec. 6. The developer shall provide the ~~manager~~ board with a copy of the approved public offering statement and any ~~approved~~ amendments thereto, to be maintained by the ~~manager~~ association as part of the records of the time-share plan.

Sec. 6.5. ~~1. For time share plans located outside of this State, a public offering statement or public report that has been authorized for use by the situs state regulatory agency and which contains disclosures, as determined by the Administrator upon review, to be substantially equivalent to or greater than the information required to be disclosed pursuant to this section and NRS 119A.300, may be used by the developer to meet the requirements of this section and NRS 119A.300 or any regulations adopted pursuant thereto. A developer may, upon approval by the Administrator, submit a public offering statement or public report that combines, in a manner prescribed by the Administrator, the information required to be disclosed by the applicable provisions of this section and NRS~~

~~119A.300 and the information required to be disclosed in a public offering statement or public report issued by a regulatory agency in one or more other states. A developer filing an abbreviated registration application must, in addition to paying the fee provided for in this chapter, provide the following:~~

~~(a) The developer's legal name, any assumed names used by the developer and the developer's principal office location, mailing address, primary contact person and telephone number;~~

~~(b) The name, location, mailing address, primary contact person and telephone number of the time share plan;~~

~~(c) The name and principal address of the developer's authorized project broker who must be a real estate broker licensed to maintain offices within this State;~~

~~(d) The name and principal address of all sales and marketing entities and the manager of the time share plan;~~

~~(e) Evidence of registration or compliance with the laws and regulations of the jurisdiction in which the time share plan is located, approved or accepted;~~

~~(f) A brief description as to whether the time share plan contains one or more component sites, and of the types of time shares offered in the time share plan;~~

~~(g) Disclosure of each jurisdiction in which the developer has applied for registration of the time share plan, and whether the time share plan or its developer was denied registration or was the subject of any disciplinary proceedings;~~

~~(h) Copies of any disclosure documents required to be given to purchasers or to be filed with the state or jurisdiction in which the time share plan is located, approved or accepted;~~

~~(i) The disclosures required by subsection 4 of section 4 of this act;~~

~~(j) A copy of the current annual or projected budget for the association, if not otherwise included in the disclosure documents; and~~

~~(k) Any other information regarding the developer, time share plan, project broker, manager, or sales and marketing entity, as established by the Division by regulation.~~

~~2. A developer of a time share plan with units located solely in this State may not submit an abbreviated filing. (Deleted by amendment.)~~

Sec. 7. NRS 119A.010 is hereby amended to read as follows:

119A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 119A.020 to 119A.160, inclusive, **and sections 2 and 3 of this act**, have the meanings ascribed to them in those sections.

Sec. 8. NRS 119A.040 is hereby amended to read as follows:

119A.040 "Developer" means any person who ~~offers to dispose of or disposes of his or her interest in a time share.~~ :

1. **Creates a time-share plan or is in the business of selling time shares, other than those employees or agents of the developer who sell time shares on the developer's behalf; or**

2. ~~Employs agents to sell time shares on the developer's behalf; or~~

~~3. Succeeds to the interest of a developer by sale, lease, assignment, mortgage or other transfer.~~

**↳ The term includes only those persons who offer time shares for disposition in the ordinary course of business.**

Sec. 9. NRS 119A.090 is hereby amended to read as follows:

119A.090 "Project broker" means any person **licensed pursuant to chapter 645 of NRS** who coordinates the sale of time shares for ~~for~~ **one or more** time-share

~~{plan}~~ plans and to whom sales agents and representatives are responsible ~~{}~~ on behalf of one or more developers.

Sec. 10. NRS 119A.100 is hereby amended to read as follows:

119A.100 "Public offering statement" means a ~~{report, issued}~~ disclosure document prepared and signed by the developer and approved ~~{for use}~~ by the ~~{Administrator}~~ ~~{pursuant to the provisions of this chapter, which authorizes a developer to offer to sell or sell time shares in the time share plan which is the subject of the report}~~ Division for use by the developer which contains information required by this chapter and the regulations adopted pursuant thereto.

Sec. 11. NRS 119A.130 is hereby amended to read as follows:

119A.130 "Sales agent" means a person who, on behalf of a developer ~~{}~~ and under the direct supervision of a person licensed pursuant to the provisions of chapter 645 of NRS, sells or offers to sell a time share to a purchaser or who, if he or she is not registered as a representative, may act to induce other persons to attend a sales presentation on the behalf of a developer.

Sec. 12. ~~{NRS 119A.152 is hereby amended to read as follows:~~

~~119A.152 "Time share plan" means [the rights to time shares and the obligations and interests appurtenant thereto created by a time share instrument] any arrangement, plan, scheme or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license right to use agreement or by any other means, whereby a purchaser, for consideration, receives ownership rights in or a right to use accommodations for a period of time less than 365 days during any given year, on a recurring basis for more than 1 year, but not necessarily consecutive years. (Deleted by amendment.)~~

Sec. 13. NRS 119A.156 is hereby amended to read as follows:

119A.156 "Time-share resale broker" means a person who is licensed pursuant to chapter 645 of NRS and is registered as a time-share resale broker pursuant to the provisions of this chapter ~~{}~~ and who, for compensation, lists, advertises, transfers, assists in transferring, promotes for resale or solicits prospective purchasers of previously sold time shares, on behalf of an owner other than a developer.

Sec. 14. NRS 119A.170 is hereby amended to read as follows:

119A.170 1. The provisions of this chapter, except subsection 4, and unless a method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS, do not apply to:

(a) The sale of 12 or fewer time shares in a ~~{project}~~ time-share plan or the sale of 12 or fewer time shares in the same subdivision;

(b) The sale or transfer of a time share by an owner who is not the developer, unless the time share is sold in the ordinary course of business of that owner;

(c) Any transfer of a time share:

(1) By deed in lieu of foreclosure;

(2) At a foreclosure sale; or

(3) By the resale of a time share that has been acquired by an association

~~{by}~~ as a result of nonpayment of association assessments:

(I) By termination of a contractual right of occupancy;

(II) By deed or other transfer in lieu of foreclosure or ~~{a}~~ termination; or

(III) At a foreclosure sale. ~~{}~~

(d) A gratuitous transfer of a time share;

(e) A transfer by devise or descent or a transfer to an inter vivos trust; or

(f) The sale or transfer of the right to use and occupy a unit on a periodic basis which recurs over a period of less than 5 years. ~~{}~~

~~unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS.~~

2. Any campground or developer who is subject to the requirements of chapter 119B of NRS and complies with those provisions is not required to comply with the provisions of this chapter.

3. The Division may waive any provision of this chapter if it finds that the enforcement of that provision is not necessary in the public interest or for the protection of purchasers.

4. The provisions of chapter 645 of NRS apply to the sale of time shares, except any sale of a time share to which this chapter applies, and for that purpose the terms "real property" and "real estate" as used in chapter 645 of NRS shall be deemed to include a time share, whether it is an interest in real property or merely a contractual right to occupancy.

**Sec. 15.** NRS 119A.237 is hereby amended to read as follows:

119A.237 1. A provisional licensee shall not:

(a) Conduct sales-related activities unless the provisional licensee is:

(1) Under the supervision of:

(I) His or her project broker; or

(II) A person licensed pursuant to chapter 645 of NRS ~~for a project, or~~

~~(III) A cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto.~~

(2) At the principal place of business or a branch office of the project broker ~~or~~ or person licensed pursuant to chapter 645 of NRS or at the physical location of a time-share development.

(b) Collect personal information from a prospective purchaser or purchaser of a time share.

2. A project broker or person licensed pursuant to chapter 645 of NRS shall not grant to a provisional licensee:

(a) Access to a time-share lockbox; or

(b) The ability to enter a private residence or a time-share unit that an unlicensed person otherwise would not have.

3. A project broker ~~or a cooperating real estate broker designated by the project broker in accordance with the provisions of this chapter and any regulations adopted pursuant thereto~~ or a person licensed pursuant to chapter 645 of NRS shall:

(a) Supervise the provisional licensee ~~employed by the project broker; the or she employs~~ and

(b) Review and approve in writing any contract prepared by the provisional licensee that relates to the sale of a time share.

4. A provisional licensee may receive a commission for the sale of a time share in which the provisional licensee is involved.

5. As used in this section:

(a) "Personal information" has the meaning ascribed to it in NRS 603A.040.

(b) "Provisional licensee" means an applicant who receives a provisional sales agent's license from the Division pursuant to NRS 119A.233.

**Sec. 16.** NRS 119A.300 is hereby amended to read as follows:

119A.300 Except as otherwise provided in NRS 119A.310, the Administrator shall issue ~~to public offering statement and~~ a permit to sell time shares to each applicant who:

1. Submits an application, in the manner provided by the Division, which includes:

- (a) The name and address of the project broker;
  - (b) A copy of each time-share instrument that relates to the time-share plan;
  - (c) A preliminary title report *issued within 30 days of submittal* for the project and copies of the documents listed as exceptions in the report;
  - (d) Copies of any other documents which relate to the time-share plan or the project, including any contract, agreement or other document to be used to establish and maintain an association and to provide for the management of the time-share plan or the project, or both;
  - (e) Copies of instructions for escrow, deeds, sales contracts and any other documents that will be used in the sale of the time shares;
  - (f) A copy of any proposed trust agreement which establishes a trust for the time-share plan or the project, or both;
  - (g) Documents which show the current assessments for property taxes on the project;
  - (h) Documents which show compliance with local zoning laws;
  - (i) If the units which are the subject of the time-share plan are in a condominium project, or other form of common-interest ownership of property, documents which show that use of the units is in compliance with the documents which created the common-interest ownership;
  - (j) Copies of all documents which will be given to a purchaser who is interested in participating in a program for the exchange of occupancy rights among owners and copies of the documents which show acceptance of the time-share plan in such a program;
  - (k) A copy of the budget or a projection of the operating expenses of the association, if applicable;
  - (l) *A copy of the current point-value use directory, along with rules and procedures for changes by the developer or the association in the manner in which point values may be used;*
  - (m) A financial statement of the developer; ~~and~~
  - ~~—(n) The ~~sample~~ public offering statement described in section 4 of this act ~~is~~ in a form prescribed by the Division; and~~
  - (o) Such other information as the Division, by regulation, requires; ~~and~~
2. Pays the fee provided for in this chapter.
  3. *Cures any deficiency in the application, including, without limitation, any deficiencies in the ~~sample~~ public offering statement submitted pursuant to section 4 of this act.*
- Sec. 17.** NRS 119A.305 is hereby amended to read as follows:
- 119A.305 The terms and conditions of the documents and agreements submitted pursuant to NRS 119A.300 , *and ~~sections~~ section 4 ~~and 6.5~~ of this act*, which relate to the creation and management of the time-share plan and to the sale of time shares and to which the applicant or an affiliate of the applicant is a party must be described in the public offering statement and constitute ~~additional~~ *the* terms and conditions of the applicant's permit to sell time shares.
- Sec. 18.** NRS 119A.320 is hereby amended to read as follows:
- 119A.320 1. The ~~Division~~ *Administrator* shall ~~is~~ *issue an order*, within ~~30~~ *30* ~~60~~ days after the receipt of an application for a permit to sell time shares ~~notifying in a time share plan containing only one component site, or within 120 days after the receipt of an initial application for a permit to sell time shares in a time share plan containing more than one component site, notify~~ the applicant of ~~his or her~~ decision to:
- (a) ~~Issue a public offering statement and permit to sell time shares;~~
  - ~~—(b) Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or~~

~~(b) (c) Deny the application and list the reasons for denial in sufficient detail to allow the developer to cure the deficiencies.~~

2. The ~~Division~~ Administrator shall, within 45 days after:

(a) The receipt of evidence that the deficiencies in the application for a permit to sell time shares are cured, issue a ~~public offering statement and~~ permit to sell time shares or deny the application and list the ~~specific~~ reasons for denial pursuant to the provisions of this chapter and any regulations adopted pursuant thereto; or

(b) The issuance of a preliminary permit, ~~receipt of all information necessary to cure the identified deficiencies and satisfaction of all the requirements for the issuance of a permit to sell time shares,~~ issue a ~~public offering statement and~~ permit to sell time shares.

Sec. 19. NRS 119A.355 is hereby amended to read as follows:

119A.355 1. A permit must be renewed annually by the developer by filing an application with and paying the fee for renewal to the Administrator. The application must be filed and the fee paid not later than 30 days before the date on which the permit expires. The application must include the budget of the association and any change that has occurred in the information previously provided to the Administrator or in a public offering statement ~~of disclosure~~ provided to a prospective purchaser pursuant to the provisions of NRS 119A.400.

2. The renewal ~~of a permit with no material changes to the public offering statement~~ is effective on the 30th day after the filing of the application unless the Administrator:

(a) ~~Denies~~ ~~Issues a written denial of~~ the renewal pursuant to NRS 119A.654 ~~f, describing the reasons for denial pursuant to the provisions of this chapter in sufficient detail to allow the developer to cure such deficiencies, or for any other reason;~~ or

(b) Approves the renewal on an earlier date.

~~3. The Division shall, within 30 days after the receipt of evidence that the deficiencies in the renewal of a permit to sell time shares are cured, renew the permit to sell time shares or deny the renewal and list the specific reasons for denial pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.~~

Sec. 20. NRS 119A.357 is hereby amended to read as follows:

119A.357 1. A sales agent, representative, manager, developer, ~~or~~ project broker, time-share resale broker or person licensed pursuant to chapter 645 of NRS and subject to the provisions of this chapter shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any crime involving moral turpitude.

2. A sales agent, representative, manager, developer, ~~or~~ project broker, time-share resale broker or person licensed pursuant to chapter 645 of NRS and subject to the provisions of this chapter shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.

Sec. 21. NRS 119A.390 is hereby amended to read as follows:

119A.390 A reservation to purchase a time share must:

1. Be on a form approved by the Division;

2. Include a provision which grants the prospective purchaser the right to cancel the reservation at any time before the execution of the contract of sale with the full refund of any deposit;

3. Provide for the placement of any deposit in escrow until ~~the public offering statement is approved and~~ a permit is issued by the Administrator pursuant to NRS ~~119A.300~~ 119A.320;

4. Guarantee the purchase price for the time share for a certain period after the ~~public offering statement is approved and~~ issuance of the permit to sell time shares; and

5. Require that any interest earned on the deposit for the reservation be paid to the prospective purchaser.

Sec. 21.5. NRS 119A.400 is hereby amended to read as follows:

119A.400 1. ~~Each~~ Before the execution of any contract for the sale of a time share, the developer ~~or, if the developer sells time shares~~ through his or her project broker and sales agents, the project broker and sales agent, shall provide each prospective purchaser with ~~it~~ ;

(a) A copy of the developer's public offering statement which was approved by the Division pursuant to section 4 of this act and which must contain a copy of the developer's permit to sell time shares ~~it~~ ; and

(b) An addendum to the public offering statement summarizing any pending amendments to the public offering statement that have been submitted to the Division but have not yet been approved, along with a statement to the purchaser that the amendment has been submitted to the Division for approval.

2. The project broker or sales agent shall review the public offering statement with each prospective purchaser before the execution of any contract for the sale of a time share and obtain a receipt signed by the purchaser for a copy of the public offering statement.

3. If a contract is signed by the purchaser, the signed receipt for a copy of the public offering statement must be kept by the project broker for 3 years and is subject to such inspections and audits as may be prescribed by regulations adopted by the Division.

Sec. 22. NRS 119A.410 is hereby amended to read as follows:

119A.410 1. The purchaser of a time share may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract. The contract of sale must include a statement of this right.

2. The right of cancellation may not be waived. Any attempt by the developer to obtain a waiver results in a contract which is voidable by the purchaser.

3. The notice of cancellation may be delivered personally to the developer , ~~it~~ sent by certified mail, return receipt requested, or sent by ~~standard~~ express, priority or recognized overnight ~~common-carrier~~ delivery service, with proof of service, to the business address of the developer.

4. The developer shall, within ~~it~~ 20 days after receipt of the notice of cancellation, return all payments made by the purchaser.

Sec. 23. NRS 119A.534 is hereby amended to read as follows:

119A.534 1. A manager of a project located in this State who enters into or renews an agreement that must comply with the provisions of subsection 3 of NRS 119A.530 shall submit to the association and to the Division a disclosure statement that contains a description of any arrangement made by the manager or an affiliate of the manager relating to:

(a) The resale of time shares on behalf of the association or its members;

(b) Actions taken for the collection of assessments and the foreclosure of liens on behalf of the association or its members;

(c) The exchange or rental of time shares owned by the association or its members; and



(d) The use of the names of the members of the association for purposes unrelated to the duties of the association as set forth in the time-share instrument and this chapter.

2. The disclosure statement must be:

(a) Submitted annually at a time designated by the Administrator and at least 120 days before any date on which the agreement is automatically renewed.

(b) Signed by the manager or an authorized representative of the manager under penalty of perjury.

3. The Administrator shall adopt regulations prescribing the form and contents of the disclosure statements required by this section.

**Sec. 24.** NRS 119A.542 is hereby amended to read as follows:

119A.542 1. The *developer or* board of an association shall:

(a) Cause to be conducted at least once every 5 years, a study of the reserves required to repair, replace and restore the major components of the project;

(b) Review the results of that study at least annually to determine if those reserves are sufficient; and

(c) Make any adjustments it deems necessary to maintain the required reserves.

2. The study required by subsection 1 must be conducted by a person qualified by training and experience to conduct such a study, including a member of the board or the manager of the time-share plan or the project, or both, who is so qualified. The study must include, without limitation:

(a) A summary of an inspection of the major components of the project;

(b) An identification of the major components of the project which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be required to cover the cost of repairing, replacing or restoring the major components identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study.

3. The Administrator shall adopt by regulation the qualifications required for conducting a study required by subsection 1.

**Sec. 25.** NRS 119A.670 is hereby amended to read as follows:

119A.670 The Real Estate Commission may take action pursuant to NRS 645.630 against any project broker *or person who is licensed pursuant to chapter 645 of NRS and subject to the provisions of this chapter* who fails to adequately supervise the conduct of any sales agent or representative with whom the project broker *or person* is associated.

**Sec. 26.** NRS 119A.680 is hereby amended to read as follows:

119A.680 1. It is unlawful for any person to engage in the business of, act in the capacity of, advertise or assume to act as a:

(a) Project broker, *person who is licensed pursuant to chapter 645 of NRS or ~~sales agent~~ time-share resale broker* within the State of Nevada without first obtaining a license from the Division pursuant to chapter 645 of NRS. ~~for NRS 119A.210.~~

(b) *Sales agent for a project broker within the State of Nevada without first obtaining a license from the Division pursuant to NRS 119A.210. ~~for~~, unless he or she is licensed as a real estate salesperson pursuant to chapter 645 of NRS; or*

(c) Representative, manager or time-share resale broker within the State of Nevada without first registering with the Division.

- 1           2. Any person who violates subsection 1 is guilty of a gross misdemeanor.